IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 202/2005

RAHMATULLA Vs. THE STATE OF RAJASTHAN

DATE: 11.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. M.K. Jain for the complainant-petitioner.
Mr. Ashwani Kumar Sharma, PP for the State.

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This criminal revision petition under Section 397 read with Section 401 Cr.P.C. is preferred against the order dated 25.01.2005 passed by the Additional Sessions Judge (Fast Track) No.2, Jhunjhunu in Case No. 33/2004, whereby the application of the complainant under Section 319 Cr.P.C. has been dismissed.

Brief facts of the case are that on 11.12.2004 after recording the statements of the prosecution witnesses, the petitioner filed and application under Section 319 Cr.P.C. and stated that as per prosecution witnesses Khalid, Nasim, Habib and Smt. Sudi have also played equal part in committing the crime. Therefore, cognizance against the above mentioned persons may be taken and they may be tried along with other accused, but the application of the petitioner has been

dismissed by the Court below vide order dated 25.01.2005. The petitioner submits that the Court below has seriously erred in not considering the statements of PWs 1, 13, 14 16 and 17. They specifically alleged that Khalid, Nasim, Habib and Smt. Sudi have played equal part in committing the crime with other accused.

In support of his submissions, the learned counsel for the petitioner has placed reliance on the judgment rendered by a co-ordinate Bench of this Court in the case of ***Ram Niwas Vs. State of Rajasthan & Ors., decided on 16.11.2005 and reported in 2006(1) RCC 341.***

I have heard learned counsel for the petitioner, learned Public Prosecutor for the State and have also carefully perused the relevant record and gone through the impugned order dated 25.01.2005.

The Court below while deciding the application of the petitioner under Section 319 Cr.P.C. has observed that prima-facie no case is made out against Khalid, Smt. Nasim, Habib and Smt. Sudi after appreciating independent witnesses PW8 Fateh Mohd. and PW9 Ramjan and the statements of PWs 1, 13, 14, 16 and 17.

The judgment referred by the learned counsel for the petitioner also speaks that at the juncture of

taking cognizance, the Court should not critically analyse the evidence, the existence of a prima-facie case is sufficient. Thus, in the instant case, while deciding the application of the petitioner under Section 319 Cr.P.C. considering the witnesses since prima-facie case is not made out against the aforementioned persons, therefore, the application has been rejected by the Court below vide its order dated 25.01.2005, which requires no interference by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

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